



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
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MCO 1640.3F
POS-40
22 Mar 99

MARINE CORPS ORDER 1640.3F

From: Commandant of the Marine Corps
To: Distribution List

Subj: PROCEDURES FOR THE TRANSFER OF MARINE CORPS PRISONERS

Ref: (a) DODDIR 1325.4
(b) SECNAVINST 1640.9B
(c) MCO 5800.16
(d) MCO P10120.28F
(e) SECNAVINST 5815.3H
(f) MCO 1050.16

Encl: (1) Marine Corps Brigs

Report Required: Court-Martial Progress Report (Report Control Symbol
DN-1640-02), par 8e(5)

1. Purpose. To publish policy and procedures for the transfer, transport and confinement of Marine Corps prisoners and parolees.

2. Cancellation. MCO 1640.3E.

3. Definitions

a. Prisoner. A person tried by court-martial and ordered into confinement, whether or not the sentence has been ordered executed.

b. Detainee. A person ordered into confinement awaiting a court-martial.

c. Parolee. A prisoner who has been granted parole by the Naval Clemency and Parole Board.

d. Transfer. The administrative process of effecting a permanent change of station from one command to another.

e. Transport. The physical and mechanical process associated with the movement of a prisoner to or from a confinement facility or geographic area.

DISTRIBUTION STATEMENT A: Approved for public release; distribution is unlimited.

f. Approved Confinement Facility. A military place of confinement approved by the appropriate military service to house military prisoners, or a civilian facility used by the U.S. Marshal Service for housing federal prisoners of the same legal status, age and gender.

g. Sentence. The length of time a prisoner is ordered into confinement by a court-martial. Adjusted release dates are obtained by adding forfeited good time and inoperative time and subtracting time for which a prisoner is given credit, to include earned time and restored/earned time from the full term release date.

h. Brig and Detention Facilities. A military place of confinement authorized by CMC (POS-40) for pretrial and post-trial confinement, classified according to the maximum length of a sentence which may be served therein. Maximum lengths of sentence are consistent with current policy as dictated by reference (a).

(1) Detention Facility. A pretrial and short-term post-trial confinement facility, operated by corrections specialists. Detention facility detainee/prisoner population normally does not exceed 20 confinement spaces. Limited to the degree necessary by facility use level, remoteness, and command resources. Programs should include reception, individual and group counseling, work, academic, restoration, incentive, survival skills, recreation, physical training, religious, testing and evaluation, general military training, and prerelease. When authorized by CMC (POS-40), detention facilities are authorized to restrain, detain and confine personnel serving sentences to confinement for periods of 30 days or less remaining to the adjusted release date upon convening authority action.

(2) Level I Correctional Facility. A CONUS military corrections facility that will normally incarcerate detainees and prisoners who have 90 days or less to serve to their adjusted release date upon convening authority action. Core programs provided will include reception, individual and group counseling, work, academic, restoration, incentive, survival skills, recreation, physical training, religious, testing and evaluation, general military training, and prerelease. Limited treatment programs (i.e., crisis intervention, access to routine drug and alcohol education, basic educational and vocational training, and rehabilitative) will be offered consistent with security

requirements, available resources, facilities, personnel and the needs of the service.

(3) Level II Correctional Facility. A CONUS military corrections facility that houses and provides correctional treatment for detainees and prisoners with sentences of 5 years or less remaining to serve to their adjusted release date upon convening authority action. In addition to the core programs outlined above for Level I facilities, Level II facilities will provide, at a minimum, additional treatment programs to include corrections/offense related counseling; drug and alcohol education including Narcotics Anonymous and Alcoholics Anonymous; stress management; vocational training; functional skills testing; and remedial education with an opportunity for completion of high school/GED.

(4) Level III Correctional Facility. The U.S. Army is designated as the executive agency for the operation of long-term confinement facilities. Prisoners who have greater than 5 years remaining to serve to their adjusted release date upon completion of convening authority action will be transferred to a Level III (long-term) confinement facility. Programs consist of those listed in Level I and Level II facilities and are expanded accordingly.

(5) MCB Brig, Camp S. D. Butler, Okinawa, Japan. An OCONUS military corrections facility under the command of the CG, MCB, Camp S. D. Butler, Okinawa, Japan. The MCB Brig, Camp S. D. Butler does not fall within the classification guidelines of the DoD corrections system. The MCB Brig, Camp S. D. Butler is designated for detainees and prisoners who have sentences of one year or less remaining to serve to their adjusted release date upon convening authority action. Prisoners who have more than one year remaining to serve to their adjusted release date upon completion of convening authority action will be transferred to a Level II or long-term facility as designated by CMC (POS-40). The MCB Brig, Camp S. D. Butler will provide, at a minimum, the same correctional treatment programs as a Level I facility.

i. Detention Cells, Holding Cells and Spaces. Detention cells and spaces, rooms, or other berthing spaces are used for short-term detention. They are authorized to restrain or detain personnel for periods not to exceed 24 hours during the workweek and not more than 72 hours over a weekend. Prisoners awaiting transport may be confined in a detention cell.

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4. General Transfer Criteria. A Marine prisoner who is confined in a confinement or detention facility, and whose sentence exceeds the limits prescribed above, will be transferred to an appropriate facility as designated by CMC (POS-40). The determination will be based on the length of sentence remaining to be served; prisoner's gender; availability and balance of confinement space; and the availability of treatment, training and work programs.

a. Women Prisoners. The MCB Brig, Quantico, VA and the MCB Brig Camp S. D. Butler, Okinawa, Japan are the only Marine Corps facilities authorized for the confinement of women.

(1) Women prisoners from CONUS commands who have been awarded a court-martial sentence which includes confinement in excess of 30 days will be confined in the MCB brig Quantico, VA, unless otherwise coordinated with CMC (POS-40).

(2) Women prisoners in WESTPAC serving sentences that do not exceed one year upon completion of the convening authority action will be confined at the MCB Brig, Camp S. D. Butler, Okinawa, Japan.

(3) Women prisoners who have greater than 5 years remaining to be served after the convening authority action will be transported to the United States Disciplinary Barracks (USDB), Fort Leavenworth, KS, and assigned to the Marine Corps Detachment, Fort Leavenworth, KS.

b. Detainees. When operating conditions and resources permit, commanding officers effecting pretrial confinement should utilize the nearest military confinement facility.

c. Officer Prisoners. Officer and officer candidate prisoners will normally be transported to the USDB, Fort Leavenworth, KS for confinement upon completion of the convening authority action and assigned to the Marine Corps Detachment, Fort Leavenworth, KS.

5. Transfer and/or Transport Requirements

a. All requests for transfer and/or transport of USMC detainees, prisoners and parolees will be requested by commanding officers, via naval message or letter, to CMC (POS-40). This requirement is essential to ensure CMC's ability to establish, maintain and provide statistical data relating to corrections, confinement programs and prisoner populations. Commands with

local memorandums of understanding and interservice agreements will comply with this requirement. Copies of local memorandums of understanding and interservice agreements will be forwarded to CMC (POS-40) per reference (b).

b. Transfer and/or transport should normally await convening authority action, unless for cause (for example, the CO determines that the health or welfare of the prisoner necessitates his transfer or facility).

c. Requests from the prisoner's parent command shall include:

(1) Name, grade, social security number and gender.

(2) Date sentence adjudged and sentence awarded. Include the terms of the pretrial agreement, if applicable.

(3) Articles and charges convicted of with a brief description of each.

(4) Date convening authority acted and sentence approved. If the convening authority has not acted, a statement regarding his/her approval to transport the prisoner prior to his/her action will be included.

(5) Minimum release date.

(6) Prisoner's home of record.

(7) Any information of which the escorts and/or receiving correctional facility need be aware of to ensure the safety, security and secure transport of the prisoner.

(8) A statement regarding whether the prisoner is participating in the Brig's Victim and Witness Notification Program. Do not include name and address of the victims or witnesses.

(9) Justification for transfer.

d. Federal Bureau of Prisons (FBOP). The Army, as executive agency for long-term corrections, will serve as the single point of contact with the FBOP for transfer of all long-term prisoners into federal confinement facilities. Normally, sentences will include a punitive discharge and more than one year remaining to

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serve after all reviews are completed. All requests for transport of prisoners to the FBOP will be forwarded to CMC (POS-40) for further coordination with the U.S. Army.

e. Exceptions. Transfer and transport criteria exceptions will be considered on a case-by-case basis by CMC (POS-40).

6. Civilian Confinement Facilities. The use of local city, county and state confinement facilities is authorized for pre-trial and post-trial confinement of Marines when military facilities are not available. Sentences in excess of 30 days shall not be served in civilian confinement facilities.

a. Prior to effecting the confinement, the command will notify CMC (POS-40) of its intention, via telephone, DSN 224- 2095/2674 or commercial (703) 614-2095/2674. If confinement in excess of 72 hours is contemplated, the confining command must request approval from CMC (POS-40) via message, with an information copy provided to the nearest Marine Corps brig. The request will contain the following:

- (1) Name, grade, social security number and gender.
- (2) Date confined.
- (3) Reason for confinement.
- (4) Length of sentence, if applicable.
- (5) Number of days credit for pretrial confinement and/or judicial credit.
- (6) Name, telephone number, location of the confinement facility and a point of contact at the confinement facility.
- (7) Daily cost of confinement.
- (8) Projected release date.
- (9) Name and telephone number of point of contact at the confining command.

b. When the Marine has been released from the civilian confinement facility, a message will be forwarded to CMC (POS-40) containing the following information:

- (1) Name, grade, social security number and gender.

(2) Date confined and date released.

(3) Name, telephone number, location of the confinement facility and a point of contact at the confinement facility.

(4) Daily cost of confinement.

(5) Name and telephone number of point of contact at confining command.

c. Upon request, Marine Corps brigs or detention facilities located within 200 miles of the confining command or activity will provide limited administrative assistance to that command or activity. Such assistance will include:

(1) Review of the Confinement Order (NAVPERS 1640/4).

(2) Completion and maintenance of Disciplinary Action Data Card (NAVPERS 1640/5).

(3) Maintenance of command visit forms.

(4) Sentence computation.

d. Commands located beyond this 200 mile radius may obtain sentence computation support from CMC (POS-40).

e. Upon confining a Marine in a civilian facility, the confining activity will notify the civilian authority to remit itemized bills directly to: Commandant of the Marine Corps (POS-40), Headquarters, U.S. Marine Corps, 2 Navy Annex, Washington, DC 20380-1775.

7. Escort Responsibility

a. If located within 200 miles of the brig, the confining activity will normally provide the escorts. In all other cases, CMC (POS-40) has escort responsibility.

b. The commander of the installation operating the brig will issue straggler orders for a Marine's return to the parent command upon completion of his/her sentence. Appropriation data for return transportation of prisoners to their parent command will be coordinated through CMC (POS-40).

c. Escorts dispatched by CMC (POS-40) will deliver the prisoner directly to the designated confinement facility. Confining command escorts will adhere to the local procedures of the receiving brig facility.

8. Administrative Procedures

a. Prisoners who have been adjudged a punitive discharge and have at least 90 days remaining on their sentence to confinement after completion of convening authority action may be transferred by service record to a general court-martial convening authority responsible for operation of a Level II confinement facility. Requests for transfer by service record will be addressed to CMC (POS-40) with an information copy to CMC (MMEA). Requests should include:

- (1) Name, grade, social security number and gender.
 - (2) Date sentence adjudged and sentence awarded. Include the terms of the pretrial agreement, if applicable.
 - (3) Charges and specifications convicted of with a brief description of each.
 - (4) Date convening authority acted and sentence approved.
 - (5) Minimum release date.
 - (6) Prisoner's home of record.
- b. The return message will state the following:
- (1) Approval or disapproval of request.
 - (2) Unit assigned escort responsibility, if applicable.
 - (3) Assigned mode of transportation, if applicable.
 - (4) Pickup and delivery times, when escorts are dispatched by CMC (POS-40).

c. Prisoners with less than 90 days remaining to serve on a sentence after convening authority action will be transported for confinement and returned upon release to the confining command. Requests for exceptions will be addressed to CMC (MMEA) with an information copy provided to CMC (POS-40).

d. All prisoners transported to a Marine Corps brig will arrive with the following documents:

- (1) Health and dental records.
- (2) Original Confinement Order (NAVPERS 1640/4).
- (3) One certified true copy of the convening authority action, if applicable.
- (4) Results of trial, if applicable.
- (5) DD Form 629 (Receipt for Prisoner or Detained Person).

e. In addition to those items related to paragraph 10e of this Order, prisoners transferred by service record to a Marine Corps brig will arrive with these documents:

- (1) SRB.
- (2) Original orders.
- (3) Prisoner Conduct Record (NAVPERS 1640/8), when being transported in conjunction with the transfer.
- (4) One certified true copy of the Disciplinary Action Data Card (NAVPERS 1640/5), when being transported in conjunction with the transfer.
- (5) Court-martial Progress Report (Report Control Symbol DN-1640-02), when being transported in conjunction with the transfer. The Court-martial Progress Report will be completed as outlined in reference (b), to include:
 - (a) Prisoner Admission Classification Summary Data (DD Form 1476).
 - (b) Prisoner's Progress Summary Data (DD Form 1477).
 - (c) Prisoner's Summary Continuation Sheet (DD Form 1478).
 - (d) Prisoner Assignment and Clemency Board Action (DD Form 1479).
- (6) One certified true copy of the court-martial order.

f. Other military and civilian confinement facilities use similar, but not identical, forms to those enumerated above. If a prisoner did not serve pretrial confinement in a naval facility, the Court-martial Progress Report will not accompany the prisoner. Requirements for confinement in another service facility (except the Army's long-term confinement facilities or civilian facility) include a confinement order and compliance with victim/witness reporting requirements per reference (c). A certified copy of the investigative report is required for transports and transfers to the USDB Fort Leavenworth.

g. CMC (POS-40), more specifically MCC W92, is assigned the responsible command for prisoners transferred to the FBOP. The prisoner's parent command is responsible to ensure that all administrative matters have been completed prior to the prisoner's transfer to the FBOP.

(1) The prisoner will be transferred by service record to MCC W92 for confinement in the FBOP. Ensure all appropriate SRB entries are made and forward SRB, along with the prisoner's health and dental records, to CMC (POS-40). If the prisoner has been discharged and the SRB forwarded to archives, a copy of the discharge certificate (DD Form 214) shall be forwarded to CMC (POS-40) along with the health and dental records.

(2) Ensure that appropriate unit diary entries have been completed on the prisoner.

(3) Dispose of the prisoner's personal property in accordance with reference (d).

(4) Ensure that CMC (MMEA), Staff Judge Advocate, Naval Clemency and Parole Board, and the Navy-Marine Corps Appellate Review Activity are advised of the transfer of the prisoner to MCC W92.

9. Parole

a. Marine Corps prisoners may be placed on parole by authority of the Naval Clemency and Parole Board. Because of the uniqueness of parole, it is important to ensure that administrative matters are completed prior to release on parole.

b. CMC (POS-40), more specifically MCC W93, is assigned as the responsible command for all Marine Corps parolees.

c. Parole management is accomplished by the Commandant, United States Disciplinary Barracks (USDB), Fort Leavenworth, KS as coordinated by the Naval Clemency and Parole Board (NC&PB). Concurrent with this management transfer, the provisions of paragraph 519 of reference (e) were delegated to brig commanding officers.

d. Brig Responsibility

(1) Brig commanding officers will coordinate with appropriate supervisory authorities of the applicable U.S. Probation and Pretrial Services Office and request assistance to investigate parole program plans and oversee the supervision of prisoners paroled under the provisions of reference (e).

(2) The U.S. Parole Commission, an independent agency placed within the Department of Justice, has jurisdiction over all eligible federal prisoners and continuing jurisdiction over those released on parole or mandatory release. Field supervision of released prisoners is provided by federal probation officers, who are employed by the United States District Courts. They function as "parole officers" and provide supervision to those persons placed on probation, those paroled from institutions by actions of the U.S. Parole Commission or military authorities, and those on supervised release.

(3) Brig CO's are responsible for the coordination of a prisoner's release to parole, to include the following:

(a) Forward a copy of the prisoner's parole agreement, including Certificate of Release to Parole, to CMC (POS-40).

(b) Permanently release the prisoner to parole.

(c) Upon release of the prisoner to parole, a complete original copy of the parolee's correctional treatment file will be forwarded to the Commandant, USDB, Fort Leavenworth, KS (Attn: Parole Management Officer).

(d) Advise those individuals participating in the Victim Witness Assistance Program of the parole date, destination, and means of contacting the Naval Clemency and Parole Board on any issues which may arise after the prisoner is paroled.

e. Command Responsibility. The prisoner's parent command is responsible to ensure that all administrative matters have been completed prior to the prisoner's release to parole.

(1) The prisoner will be transferred by service record to MCC W93 for parole. Ensure all appropriate SRB entries are made and forward SRB, along with the prisoner's health and dental records to CMC (POS-40). If the parolee has not been discharged, an appellate leave package will be completed to commence one day after the parolee's release date from parole; and a discharge certificate (DD Form 214) will be completed, except for blocks, 12, 19 and 22. It is imperative that the parolee sign the DD Form 214.

(2) If the prisoner has been discharged and the SRB forwarded to archives, a copy of the discharge certificate (DD Form 214) shall be forwarded to CMC (POS-40) along with the health and dental records.

(3) Ensure that appropriate unit diary entries have been completed on the parolee.

(4) Ensure that the parolee has an ID card, if not discharged, to expire 3 months after his/her release to parole. The ID card will be over-stamped MILITARY PAROLE.

(5) Dispose of the prisoner's personal property in accordance with reference (d).

(6) Ensure that CMC (MMEA), Staff Judge Advocate, Naval Clemency and Parole Board, and the Navy-Marine Corps Appellate Review Activity are advised of the transfer of the parolee to MCC W93.

(7) Advise the parolee that he/she is being transferred to MCC W93 and that he/she is to inform CMC (POS-40) of any changes in his/her mailing address and/or phone number.

(8) Reference (f) publishes procedures which amplify the instructions contained in MCO P1050.3G for Marines on appellate leave awaiting punitive separation. This Order addresses the role of the Navy and Marine Corps Appellate Leave Activity (NAMALA), Washington Navy Yard, Washington, DC and governs appellate leave for both officer and enlisted Marine Corps personnel.

10. Victim and Witness Notification Program. It is imperative that information concerning victims and witnesses participating in the Victim and Witness Notification Program is forwarded to the receiving facility or CMC (POS-40) when the prisoner is transferred or paroled per reference (c).

a. If a prisoner is to be transported and or transferred to another confinement facility, regardless of service, the victim and witness information will be forwarded via separate correspondence, to the CO of the receiving facility. A letter of transmittal is required.

b. If a prisoner is being transferred to the USDB, the victim and witness information will be forwarded via separate correspondence to the Command Judge Advocate (Attn: Victim/ Witness Liaison), USDB, Fort Leavenworth, KS 66027. A letter of transmittal is required.

c. If a prisoner is being released to parole, the victim and witness information will be forwarded to CMC (POS-40). A letter of transmittal is required.

11. Prisoner Property. Prior to the transfer and/or transport of prisoners, liaison will be established between the confining command and the receiving brig to determine those items which are to accompany the prisoner. All other items will be disposed of by the confining command prior to the transfer by service record and/or transport in accordance with reference (d).

12. Uniform Clothing

a. Marine Corps prisoners transported between naval confinement facilities in the appropriate service uniform. Uniform items which are required to be in the prisoner's possession upon transfer varies. Liaison with the receiving brig should be made to determine these requirements. Prisoners being transferred to the USDB will be transported in uniforms provided by POS-40.

b. Enlisted prisoners who have been discharged from the Marine Corps will be transported in appropriate civilian attire. Uniform items will be properly disposed of by the confining command prior to the transfer by service record and/or transport in accordance with reference (d).

c. Officer prisoners whose dismissals have been executed will be transported in appropriate civilian attire. Uniform items are considered personal property and will be disposed of by the confining command in accordance with reference (d).

d. Procedures for obtaining civilian attire for prisoners are outlined in reference (d).

13. Health and Comfort Items. The prisoner must possess health and comfort items while in confinement. Liaison with the receiving brig should be made to determine authorized items.

14. Emergency Leave. Convening Authorities may grant emergency leave to prisoners per the MILPERSMAN and MCO P1050.3. While on emergency leave, prisoners shall be carried on the brig's out count.

a. Convening authorities will coordinate all leave procedures, and as soon as possible provide by message to CMC (POS-40) with the following:

(1) Name, grade, social security number, gender and race.

(2) Confining offense, sentence and custody grade.

(3) Time and date of funeral, hospital, when applicable.

(4) City and state where leave will take place.

(5) Name and address of funeral home or hospital.

(6) Date and time emergency leave is to begin.

(7) Date and time emergency leave is to end.

(8) A statement regarding whether the prisoner is participating in the Brig's Victim and Witness Notification Program. Do not include names and addresses of the victims and witnesses.

b. Every attempt will be made to notify individuals participating in the Brig's Victim and Witness Notification Program in writing prior to the prisoner's release on emergency leave, regardless of whether the prisoner is under escort. If this is not possible, this information will be completed telephonically to the victim. The date, time and person notified will be documented.

c. Travel arrangements (i.e., flight reservations and seating arrangements) shall be made by the escorting command, which normally will be the Marine Corps Absentee Collection Unit, unless otherwise specified by CMC (POS-40).

d. Travel and incidental costs of the prisoner's travel shall be at no expense to the government.

(1) When departing the brig, prisoners shall have sufficient personal funds in their possession to defray the cost of travel, meals and other incidentals. Valid credit cards are considered personal funds.

(2) Escort's travel and incidental expenses shall be borne by CMC (POS-40).

e. Prisoners traveling on emergency leave shall wear the appropriate service uniform. Those prisoners whose discharge has been executed shall travel in appropriate civilian attire. The brig is responsible for obtaining civilian attire in accordance with reference (d).

15. Action. CO's will ensure that local procedures, policies and directives relative to the transfer, transport, confinement and parole of Marine Corps prisoners are per this Order.

16. Reserve Applicability. This Order is not applicable to the Marine Corps Reserve.

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MARINE CORPS BRIGS

Detention Facilities

MCAS Yuma, Arizona

MCAS Iwakuni, Japan

MCRD Parris Island, South Carolina

Level II Brig

Camp Lejune, North Carolina

MCB Camp Pendleton, California

MCCDC Quantico, Virginia

Overseas Brig (not applicable under DoD corrections system)

MCB Camp Butler, Okinawa, Japan

ENCLOSURE (1)